

In the Matter of)
)
Developing a Unified Intercarrier) CC Docket No. 01-92
Compensation Regime)

To: The Commission

Corr Wireless Communications, LLC (“Corr”) is pleased to offer these comments in connection with the Commission’s consideration of how to best restructure the intercarrier compensation regime to reflect the realities of modern communications. Corr is a CMRS carrier operating regionally in Alabama and adjacent states, but for many years its predecessor was a rural LEC. Corr therefore has a useful perspective on the issues from the vantage point of both a rural wireless and wireline carrier. Corr believes that the intercarrier compensation process should be driven by three governing principles.

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appreciate the import of IP-based communications. All of these factors have combined to make the current intercarrier compensation scheme a Frankenstein-like abomination composed of bits and pieces clumsily stitched into a functioning but highly inefficient mélange.

Because the system segregates and categorizes elements of the communications network based on these historical anomalies rather than on real economic or technical distinctions, the system distorts incentives, rewards inefficiency, imposes costs where no costs are incurred, and entrenches monopoly providers at the expense of competitors. What is called for is a clean sweep, a revolution, a grand, unified, consistent approach that realistically recognizes the current and prospective character of telecommunications, an approach that applies equally to CMRS carriers, to LECs, and to long distance providers, regardless of the transmission protocols employed. As in any revolution, the beneficiaries of the old regime will cling stubbornly to their ancient privileges, but the new system must be based on fairness to all. Ultimately, an approach which applies consistently to all carriers and recognizes that all carriers and their customers benefit equally from the exchange of traffic will redound to the benefit of both the carriers and the customers they serve.

2. Arbitrary distinctions must be erased. As indicated above, the present framework is founded upon numerous regulatory distinctions which no longer have meaning. One such distinction is the intrastate/interstate category. The physical and technical characteristics of a call obviously know no political boundaries. Yet a call using identical facilities which crosses a state border is subject to different

charges than one which does not cross such a border. Perhaps such anomalies made some sense in an era when long distance calls were rare and there was a single nationwide long distance system. In the present environment, however, a wireless customer can be talking to another wireless customer without knowing or caring what state the other is in, nor should it matter. In college towns, students with home-based cellular subscriptions routinely call a friend in the dormitory next door. Is a call between two parties who are 50 feet apart “interstate” if one party has a phone connected to a carrier with a 202 area code and the other has a phone with a 212 area code, and they are both in the 203 area code?¹ As roaming charges and long distance charges have been eliminated from cellular invoices, the physical location of the parties to the call has become irrelevant to the callers. The system shouldn’t care either. State borders should simply be erased for compensation purposes.

Similarly, the distinction between local calls and non-local calls is illusory. LECs have always recognized the importance of unifying metropolitan areas through EAS (extended area service) agreements. These agreements permitted different exchanges throughout a metro area to be linked so that customers could call anywhere in the area without incurring toll charges. There is no conceptual reason why a whole state or the whole country could not be linked into an EAS (albeit with area codes needed to call other parties). Indeed, as Internet Protocol traffic becomes more and more common, it really will not matter whether a call is

¹ Under traditional “end to end” analysis, such a call would presumably be deemed intrastate even though toll charges and roaming arrangements (invisible to the consumer) are implicated. Only the essentially irrelevant happenstance that both callers are in the same state would differentiate this call from an interstate one.

going next door or across the country. As indicated, the CMRS world is rapidly moving toward that model, with the long haul costs simply becoming part of their cost of doing business. A CMRS carrier is not a local carrier and it's not a long distance carrier. It is just a carrier. The distinction between local and long distance should be erased.

Mobile radio service and cellular service were originally conceived of as ancillary to the bedrock wired phone service on which communications largely depended. As CMRS service has become ubiquitous, inexpensive and highly dependable, it has emerged as very much the co-equal of wired service to the point where many customers are cutting the wire completely. There is no reason why a LEC could not have the equivalent of an EAS agreement with the local cellular carriers. This makes sense conceptually and technically for the same reason a wired EAS of adjacent communities makes sense – customers in the same area should not have to pay toll charges to call their neighbor. Instead, many LECs have seized upon mobile traffic as a way to enhance revenues by generating toll traffic and, hence, access charges. If CMRS carriers were viewed as co-equal, they would not have to accept onerous interconnection charges as they often do now.

Finally, there should be no distinction between IP traffic and circuit-switched traffic. IP users should not be permitted to escape fees that are imposed on others. Whatever costs are imposed on the system to handle IP traffic should be paid for in the same way circuit-switched traffic is paid. If this means that the way others pay those costs must be altered, so be it.

Corr believes that the erasure of all these charges will ultimately lead to a regime where “long distance” ceases to exist as a separate service component but will simply be built in to the bundle of services that customers buy from their phone service providers. This is already the case for most CMRS customers. In Alabama, the legislature recently acted to deregulate bundled services by the largest LEC in the state, Bell South, a development which will further the blurring of the boundary between local and long distance service. “Access charges” will cease to make sense in this context as long distance carriers increasingly simply provide carriers’ carrier-type capacity to retail service providers. Every carrier providing service to an end-user customer would have the same incentive to reduce the costs it pays to complete a call as much as possible, stimulating greater efficiency in interexchange links, acceleration of IP transmission, and an elimination of artificial charges.

3. The special needs of high cost rural carriers should be handled through the universal service process rather than through the access charge infrastructure.

When it adopted the 1996 Telecom Act, Congress made it clear that it wanted “hidden subsidies” to be clearly identified as such. (“To the extent possible, the conferees intend that any support mechanisms are explicit rather than implicit, as many support mechanisms are today.”) Conf. Report 104-458, Jan. 31, 1996, at 131. In the years since 1984, the fees charged for local access have come to be relied upon by LECs (especially high cost and rural LECs) as an entitlement by which revenues from local subscribers can be supplemented with payments by long distance carriers. It has always been unclear conceptually why “access” to local exchanges by interexchange carriers is a prized service which must be paid for handsomely but

access to interexchange networks is somehow viewed as being of no value at all. Both categories of carriers benefit commensurately by the access to each others' networks, yet the present structure treats the process as one of unilateral benefit. There is no logical reason for this structure other than that was the way AT&T left the phone system when it broke up – access charges were a useful tool for ensuring that local systems in need of surplus payments got them not only from AT&T but from other interexchange carriers as well. This was never intended to be anything more than an interim arrangement. Instead, it has become an entitlement program, a form of welfare which is harder to eradicate than any weed.

If we assume for purposes of discussion that high cost and rural LECs deserve help from society at large to serve their customers at reasonable costs, the solution is not to persist in the imposition of charges on long distance carriers to support these LECs. This is precisely the situation that the universal service fund was intended to handle. The supplemental income that these LECs need to service their customers at reasonable cost should be clearly identified and then included in the base that the universal service fund supports. The USF already does this to some extent, of course, but the need for the subsidy is reduced because access charge payments make up some of the shortfall. To be sure, adding the full cost of supporting high cost and rural LECs to the USF program will increase its revenue requirements considerably. But at least the subsidy will be identified for what it is, the elements involved will be carefully documented, and all segments of the communications industry will pay into the supporting fund on an even-handed basis. It is to be hoped that once the burden of this subsidy is plainly exposed, there

will be a greater effort to incentivize the recipient carriers to reduce their costs, become more efficient, and wean themselves away from a welfare-based mind-set.

Corr recognizes that there may have to be a brief transition period from the inefficient system of entitlements that has entrenched itself; the beneficiaries of such entitlements will press for as long a transition as possible to preserve for themselves the fruits of the present system. The Commission should take a hard line toward such pleas. The intercarrier compensation scheme has been badly broken for many years and the Commission has lacked the political will to fix it, hoping against hope that a “consensus” approach would emerge. That has not happened because everyone wants to preserve the aspect of the status quo that benefits them while “fixing” the parts that benefit other players. The Commission needs to bear down as it has never done before, guide itself by the fundamental principles outlined above, and impose a simple, non-discriminatory approach that treats all communications traffic among carriers as a free-flowing commodity for which each link in the path deserves compensation for the value it adds, but no more than that.

4. The practical problem for CMRS operators interconnecting with small LECs. The Commission’s FNPRM noted that there are several problems unique to the CMRS-LEC interconnection process which must be addressed. (FNPRM at Paras. 134-143). While in the long term adoption of the principles outlined above would eliminate the incentive for “gaming” interconnection so as to take advantage of artificial access arrangements, in the interim there is a crying need for relief from inordinately high interconnection charges assessed by many LECs. As the

Commission noted, it is often not worth the considerable expense involved for an interconnecting carrier to go through the Section 252 negotiation/arbitration process, particularly when the traffic volumes are relatively low. In addition, the issue of routing of wide-area CMRS traffic to either avoid or incur interexchange access charges remains unresolved.

Corr's proposal here is to establish a benchmark interconnection rate based on the average of interconnection rates around the country. Such a rate would do rough justice by reflecting the usual costs of LECs across the board, as well as negotiated rates which the parties and state commissions have found to be just and reasonable. The benchmark rate in any given market would be subject to challenge through the Section 252 process by either the LEC or the CMRS carrier, but we anticipate that this would be the rare case since the rate would be fair in most instances. This was the approach followed by the Commission in initially specifying interim transport and termination charges under Part 51.710 *et seq.* Essentially, this proposal shifts the burden of establishing and justifying a higher rate onto the LEC. This should create a strong incentive for LECs to impose reasonable rates until a permanent arrangement based on bill and keep can be implemented.

For the reasons set forth above, Corr urges the Commission to act quickly and forcefully to establish a new intercarrier compensation regime which reflects 21st Century realities, not the outdated and inefficient accretions of the past.

Respectfully submitted,

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